REMARKS/ARGUMENTS

This application has been reconsidered carefully in light of the Office Action dated as mailed on 25 April 2006. A careful reconsideration of the application by the Examiner in light of the foregoing amendments and the following remarks is respectfully requested.

This response is timely filed as it is filed within the one (1) month shortened statutory period for response to the outstanding Office Action.

No additional claim fee is believed due as a result of this Amendment because neither the total number of pending claims nor the number of pending independent claims is believed to exceed the total number and the number of independent claims, respectively, for which fees have previously been paid. If, however, it is determined that such a fee is properly due as a result of this communication, the Commissioner is hereby authorized to charge payment of such fees or credit any overpayment, associated with this communication, to Deposit Account 19-3550.

Amendment to the Claims

By the above,

1. claims 29-33 have been canceled without prejudice and

2. claims 34-38 have been added to more fully and completely claim the disclosed subject matter.

Newly added claims 34-38 are method claims dependent, directly or indirectly, on claim 1. The limitations of each of claims 34-38 find support throughout the originally filed patent application including, for example, original claims 29-33. No new matter has been added by way of these new claims.

Claims 1-28 and 34-38 remain in the application.

Elections/Restrictions

The Office Action states that restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-28, drawn to an explosive composition, classified in class 149, subclass 19.7.

II. Claims 29-33, drawn to a process for an explosive, classified in class 149, subclass 109.6.

The Action alleges that inventions I and II are distinct, each from the other because:

> Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by solvent processing.

The invention of Group I (i.e., claims 1-28) is elected with traverse, at least to the extent that the Action has misidentified the subject matter or nature of the claims.

For example and more specifically, while the Action states that claims 1-28 are drawn to an explosive composition and that claims 29-33 are drawn "to a process for an explosive", claims 1-28 are directed to methods for increasing the burn rate of a gas generant formulation (see independent claims 1 and 19, for example) and claims 29-33 were directed to a gas generant formulation (see independent claim 29, for example).

Moreover, neither the method of claim 1 nor the formulation of claim 29 are particular or exclusive of or to solvent processing. Thus, no significance appears attachable to the statement in the Action that "the product can be made by solvent processing."

It is noted that independent claim 29 is directed to a gas generant formulation that comprises "at least one metal aminotetrazole hydroxide effective to enhance the burn rate of the gas generant formulation as compared to the same gas generant formulation without inclusion of the at least one metal aminotetrazole hydroxide." Independent claim 1 is directed to a method for increasing the burn rate of a gas generant formulation, the method comprising: "adding a quantity of at least one metal aminotetrazole hydroxide to the gas generant formulation."

In view of the above, it is respectfully submitted that the Action has failed to show or establish that in the instant case, "the product as claimed can be made by another and materially different process."

Further, the Action alleges these inventions have acquired a separate status in the art "as shown by their different classification." The Action, however, though alleging different subclasses, identifies that the claims of both inventions I and II are both in class 149, i.e., the same class.

In view of the above, it is respectfully submitted that the subject restriction requirement and the stated basis therefore are incorrect and/or improper. The withdrawal of such restriction requirement is requested and notification to that effect is solicited.

In addition, by the above, non-elected claims 29-33 have been cancelled without prejudice. Claims 34-38, however, have been added to more fully and claim the disclosed subject matter. Claims 34-38 are also believed directed to the invention of Group I.

The Action has further required, for either Group of invention elected, under 35 U.S.C. 121 to elect a single disclosed species based [on the] composition of the gas generant (i.e., Applicant must elect one of the species of metal, the fuel and the oxidizer) for prosecution on the merits to which the claims shall be restricted if no generic claim finally held to be allowable.

The following elections are made relative to the composition of the gas generant formulation:

1. copper as the metal of the metal aminotetrazole hydroxide;
2. guanidine nitrate as the fuel; and
3. basic copper nitrate as the oxidizer.

Of the above elected claims 1-28 and 34-38, at least claims 1-13, 16-23, 26-28, 34-36 and 38 and are each believed to be readable on the so-elected invention species, with at least claims 1-5 believed to be generic.

Conclusion

It is believed that the above elections are properly and fully responsive to the requirements contained in the Action and that the application is in condition for substantive examination. Should the Examiner detect any issue or have any question, the Examiner is kindly requested to contact the undersigned by telephone at the (847) 490-1400, in an effort to expedite examination of the application.

Respectfully submitted,

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